

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

ZOHAR CDO 2003-1, LIMITED,  
a Cayman Island exempted company, and  
ZOHAR II 2005-1 LIMITED,  
a Cayman Islands exempted company,

*Plaintiffs,*

v.

OCTALUNA, LLC, OCTALUNA II, LLC,  
PATRIARCH PARTNERS VIII, LLC and  
PATRIARCH PARTNERS XIV, LLC,

*Defendants.*

Civil Action No.: 1:18-cv-0108-JFB-SRF

**STIPULATION AND [PROPOSED] ORDER STAYING ACTION PENDING  
ADJUDICATION OF PARALLEL ACTION**

WHEREAS, Defendants Octaluna, LLC, Octaluna II, LLC, Patriarch Partners VIII, LLC and Patriarch Partners XIV, LLC removed this action to the United States District Court for the District of Delaware on January 18, 2018;

WHEREAS, Defendants moved to dismiss, transfer, or stay this action on February 2, 2018;

WHEREAS, Plaintiffs Zohar CDO 2003-1 Limited and Zohar II 2005-1 Limited moved to remand this action to the Delaware Court of Chancery on February 7, 2018;

WHEREAS, Defendants previously removed from the Delaware Court of Chancery to the United States District Court for the District of Delaware a parallel action styled as *Zohar CDO 2003-1 Ltd. v. Croscill Home LLC*, No. 17-cv-1797 (“*Croscill*”);

WHEREAS, the defendants in *Croscill* moved to transfer or stay that action and the plaintiffs in *Croscill* moved to remand and to expedite that action, and Magistrate Judge Sherry

R. Fallon (the “Court”) on February 14, 2018 issued a Report and Recommendation recommending that the *Croscill* action be remanded, that the plaintiffs in that action be awarded attorneys’ fees and costs, limited to expenses incurred as a result of the removal, and recommending that the motions to transfer and expedite be denied as moot;

WHEREAS, the defendants in *Croscill* intend to file objections to the Report and Recommendation in that action;

WHEREAS, counsel for Defendants in this action approached counsel for Plaintiffs in this action seeking a stay of this action pending resolution of the objections the defendants in *Croscill* intend to file to the Report and Recommendation in that action;

WHEREAS, the parties believe that the legal issues decided in the Report and Recommendation in *Croscill* regarding the motion to remand and the motion to transfer or stay in that action are not materially different from the legal issues to be decided in the pending motion to remand and that part of Defendants’ motion to dismiss, stay or transfer in this action that addresses the stay and transfer requests;

WHEREAS, the parties wish to avoid further burdening the Court and incurring additional fees, costs and expenses in this action prior to the resolution of the defendants’ forthcoming objections to the Report and Recommendation in *Croscill* by Judge Joseph F. Bataillon (the “District Court”);

NOW, THEREFORE, it is hereby stipulated and agreed by the parties hereto, subject to the approval of the Court, that:

1. This action, including all briefing on any pending motions, is stayed pending the resolution of defendants’ forthcoming objections to the Report and Recommendation in *Croscill*.

2. The parties to this action will be bound in all respects by the determinations of the District Court in *Croscill* with regard to whether remand, transfer, or stay is appropriate. Both parties reserve their rights with respect to attorneys' fees.

3. The parties reserve all rights with respect to motion to dismiss portion of Defendants' pending motion to dismiss, stay, or transfer. This stipulation shall not prejudice Defendants' right to continue to prosecute their motion to dismiss in whichever court this action is ultimately litigated following a decision on remand, stay, or transfer.

4. Within 7 days of the District Court's issuance of a decision on defendants' objections to the Report and Recommendation in *Croscill*, the parties will make a joint submission to this Court advising the Court of any issues that remain to be resolved in this case.

Dated: February 22, 2018

/s/ Kenneth J. Nachbar

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*Attorneys for Defendants*

IT IS SO ORDERED.

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United States Magistrate Judge